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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,665

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Gilles Gallou

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EXAMINER

CHACKO, JOE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/553,665	<b>Applicant(s)</b> GALLOU ET AL.	
	<b>Examiner</b> JOE CHACKO	<b>Art Unit</b> 2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This office action is in response to the request for reconsideration filed on 11/29/2009. Claims 1-15 have been examined and are pending. Claims 1-4, 6 and 8-14 have been amended.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/29/2009 has been entered.

#### ***Claim Objections***

3. **Claim 1** is objected to because of the following informalities: Claim 1 recites the limitation "said input buffer" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1 and 8 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1, 4, 5, 7, 8, 9-11, 14 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wall et al. (U.S. Patent 2003/0037160 A1, hereinafter "Wall") in view of Harumoto et al.(U.S. Patent Pub. No. 2002/0004840 A1, hereinafter "Harumoto").

As to **claim 1**, Wall discloses a data requesting device through at least one first communication network from at least one data server , said data requesting device being able to support up to a maximum bandwidth rate, and comprising:

**a sending module** for sending requests of determined data to the server via at least one second communication network ([0052]; the HID device transmits request to the computational service provider to provide the requested data via a interconnection fabric),

a **receiving module** for receiving streamed data from said server into said input buffer via said first communication network and for providing said data to processing means for them to be exploited ( [0030]; the HIDs receive the output from the service providers and inherently store them in memory or a cache on the system to process)

a **retriever module** for retrieving information **comprising information** representative of said maximum bandwidth rate ([0034]; the resource optimization module to determine how much of the available network bandwidth to utilize while transmitting data) and

said **sending module sends** to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data ([0085]; the transmitter determines and controls the sequence size is specified to govern how the audio data is processed)

However, Wall does not disclose the sending module determines at least one delay between two successive sending steps of said portions

Harumoto does disclose the device wherein the said sending module determines at least one delay between two successive sending steps of said portions. ([0026]; the delay time determination determines a delay time from when the terminal reads the data to the buffer)

At the time of the invention , it would have been obvious to a person of ordinary skilled in the art to modify Wall by incorporating delay time determination unit to determine the delay time as disclosed by Harumoto . The rationale behind this modification is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As to **claim 4**, Wall-Harumoto discloses a system wherein said data requesting device an injector (Harumoto,fig.3, CPU , where the CPU performs the functions of the injector) to transfer said data from said central memory (Harumoto,fig.3, 503, ROM)to said processing means only when said data in said central memory fill up to a predetermined middle threshold level (Harumoto[0156], threshold value) of said central memory (fig.3, 503, ROM). ([155],[0156])

As to **claim 5**, Wall-Harumoto discloses a system wherein at least one of said threshold levels (Harumoto,[0141], S\_delay) of said central memory depends on a round-trip time between said data requesting device and said server. (Harumoto,[0141], where the delay time to access data from the server)

As to **claim 7**, Wall-Harumoto discloses a decoder (Harumoto,fig.3, 509),

As to **claim 8**, this is a method corresponding to the system in claim 1. Therefore it has been analyzed and rejected based upon system in claim 1.

As to **claim 9**, Wall-Harumoto discloses a device comprising:

**a receiving module** for receiving requests of determined data from at least one data requesting device ( [0030]; the HIDs receive the output from the service providers and inherently store them in memory or a cache on the system to process),

specification means for determining at least one size of successive portions of said data to be provided to said data requesting device (Wall, [0085]; the transmitter determines and controls the sequence size is specified to govern how the audio data is processed), and

**a streaming module** (Harumoto, [0172], streaming performed by server) for triggering streaming of said data portions to said data requesting device (Harumoto, [0172], Server can stream data to the terminal and control its speed),

said receiving module receiving from said data requesting device information representative of capacities of said data requesting device (Wall, [0052], provides capacity to the system independent of the destination device) and

said specification means being intended to determine said portion size in function of said information(Wall, [0085]; the transmitter determines and controls the sequence size is specified to govern how the audio data is processed),

said capacities **comprising** a maximum bandwidth rate(Harumoto, [0139], parameter S\_max) **being supported by** said data requesting device (Harumoto, [0139]);

said specification means **determining** at least one delay between two successive sending steps of said portions in function of said information(Harumoto, [0134]),

and said streaming module periodically **triggers** streaming (Harumoto, [0134]; where transmission speed indicating the amount of information to be transmitted within in a unit time) of said data portions having said portion size to said data requesting device, with a period equal to said delay,(Harumoto, [0134], [0154], [0175])

said data transmitting device being provided for a data requesting device according to claim 1.

As to **claim 10**, this is a method corresponding to the system in claim 2.  
Therefore it has been analyzed and rejected based upon system in claim 2.

As to **claim 11**, Harumoto et al.- Iliadis-Laubach et al. discloses a device, wherein said data requesting device being able to support up to a maximum bandwidth rate ( [0139], parameter S\_max) and comprising at least one input buffer having an input buffer side ([0134]), said capacities consist in said maximum bandwidth rate and said input buffer side.

As to **claim 14**, this is a method corresponding to the system in claim 1.  
Therefore it has been analyzed and rejected based upon system in claim 1.

As to **claim 15**, this is a program corresponding to the system in claim 1.  
Therefore it has been analyzed and rejected based upon system in claim 1.

7. **Claims 2, 3, 6, 12 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wall in view of Harumoto in further view of Clisham et al. (U.S. Patent Pub. No. 2004/0168052 A1, hereinafter "Clisham")

As to **claim 2**, Wall-Harumoto discloses the device wherein it comprises of a data pump (Harumoto, playback module) intended to extract data available ( Harumoto, [0155], where playback module reads data streams from buffer ) in said input buffer (Harumoto, fig.3, 505, reception buffer) and to transfer said data into a central memory (Harumoto, fig.3, 508, decoder buffer) for said data to be exploited by said processing means (Harumoto, [0122], where playback module is the processing means whereby it performs actions on the data ) ,

Harumoto et al. does not disclose a pause control signal when said data in said and in that said sending means are intended to transmit said pause control signal to said server.

Clisham et al. does discloses a client device producing a pause control signal (fig.4, 460, pause ) and in that said sending means are intended to transmit said pause control signal to said server. ([0097])

At the time of the invention , it would have been obvious to a person of ordinary skilled in the art to modify Wall-Harumoto by incorporating a pause request to the server as disclosed by Clisham. The rationale behind this is modification would be that a person of ordinary skill in the art would be motivated to combine the prior arts to achieve the claimed invention.

As to **claim 3**, Wall-Harumoto discloses a Data requesting device wherein said data in said central memory (fig.3, 502 , ROM) decrease down to a predetermined low threshold level ([0157], threshold value) of said central memory ([0156])

Clisham et al. discloses a device wherein said data pump ([0097], protocol component ) is able to produce a resume control signal (fig.4, 450,play state) when the data transfer from said input buffer to said central memory has been paused and in that said sending means ([0096], protocol component) are intended to transmit said resume control signal ([0096], play state) to said server. ([0095])

As to **claim 6**, Wall-Harumoto-Clisham discloses the system wherein said data requesting device is able to produce pause (Clisham, fig.4, 460, pause ), resume (Clisham, fig.4, 450, play has the same function as resume) and seek control signals (Clisham fig. 4, 470, seek) for respectively pausing and resuming data streaming and for positioning at given appropriate places of said determined data, and said sending means are intended to transmit to said server sequences of successively said pause, seek and resume control signals (Clisham, [0094]-[0098]) , so as to allow at least one feature among fast motion and reverse motion.(Chisham, [0098]), where fast forward and rewind operations performed)

As to **claim 12**, Wall-Harumoto-Clisham discloses a device wherein said receiving means (Clisham, [0098], client device) are intended to receive slow motion



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messages( Clisham, [0098], where seek state allows the user to preview images ) from said data requesting device, and said specification means are intended to determine at least one increased value of said period when said slow motion messages are received. (Clisham, [0098])

As to **claim 13**, Wall-Harumoto-Clisham does disclose a device, wherein said receiving means ([0098], client device) are intended to receive at least one kind of messages among fast motion and reverse motion messages (Clisham, [0098]), where fast forward and rewind operations performed), and said data transmitting device comprises parsing means able to identify successive relevant places in said determined data for at least one of said fast and reverse motions, said specification means being provided for successively positioning at said places, when one of said fast motion and reverse motion messages is received. (Clisham, [0098])

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOE CHACKO whose telephone number is (571)270-3318. The examiner can normally be reached on Monday-Friday 8:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

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/Rupal D. Dharia/

Supervisory Patent Examiner, Art  
Unit 2400

/J. C./

Examiner, Art Unit 2456